MONTANA LEGISLATIVE HISTORY

Chapter 512 1989

Bill H 655 S _____ Original bill & history ✓ C

H. Committee on Fish & Game		S. Committee on Agriculture	
Hearing Date(s) 2-16	✓ C	Hearing Date(s) 3-13	✓ C
_____	___ C	_____	___ C
_____	___ C	_____	___ C
_____	___ C	_____	___ C
Date Out _____	___ C		

Did this bill originate in an interim committee? ___ Yes ___ No

Committee _____ Report _____

HOUSE BILL NO. 655

INTRODUCED BY HARPER, MAZUREK, O'KEEFE, GRADY, SIMON, ELLISON, RANEY

IN THE HOUSE

FEBRUARY 11, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON FISH & GAME.
FEBRUARY 13, 1989	FIRST READING.
FEBRUARY 17, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 18, 1989	PRINTING REPORT.
FEBRUARY 20, 1989	SECOND READING, DO PASS.
FEBRUARY 21, 1989	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 90; NOES, 8.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 28, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON AGRICULTURE, LIVESTOCK & IRRIGATION.
	FIRST READING.
MARCH 21, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 22, 1989	SECOND READING, CONCURRED IN.
MARCH 27, 1989	THIRD READING, CONCURRED IN. AYES, 48; NOES, 1.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH 31, 1989	RECEIVED FROM SENATE.
	SECOND READING, AMENDMENTS CONCURRED IN.
APRIL 1, 1989	THIRD READING, AMENDMENTS CONCURRED IN.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

HOUSE BILL NO. 655

INTRODUCED BY Hayne Megard
Rafe Bud Smith Mercy

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE ADMINISTRATION AND REGULATION OF FLOATING, CAMPING, AND RECREATIONAL USE OF A PORTION OF THE SMITH RIVER WATERWAY; PROVIDING FOR A MANAGEMENT PLAN AND ADOPTION OF RULES REGULATING RECREATIONAL USE; ALLOWING FOR USER FEES BY RULE AND ALLOCATING THE FEES; PROVIDING A PENALTY FOR VIOLATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because rulemaking authority is granted to the fish and game commission in [section 6] for the administration of the Smith River waterway. The grant of rulemaking authority is described in detail in [section 6]. The authority of the commission to regulate recreational use and minimize conflicts for the protection of the water and canyon resources of the Smith River is through the rulemaking process.

The legislature intends that the fish and game commission adopt rules regulating recreational use as the need for restrictions is created by increased recreational use. The commission will have time to carefully develop

LC 0876/01

rules balancing all interests after providing opportunity for public input and discussion.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Short title.** [This act] may be cited as the "Smith River Management Act".

NEW SECTION. **Section 2. Purpose -- intent.** (1) The purpose of [this act] is to:

(a) provide continued recreational use and enjoyment of the Smith River waterway, consistent with the river's capacity;

(b) seek ways to minimize conflicts between river users and private landowners; and

(c) protect the integrity of the river's water and canyon resources for future generations.

(2) The intent of [this act] is to interpret and implement [this act] in a manner consistent with the statement of purpose for the state park system in 23-1-101.

NEW SECTION. **Section 3. Definitions.** As used in [this act], the following definitions apply:

(1) "Commission" means the fish and game commission provided for in 2-15-3402.

(2) "Department" means the department of fish, wildlife, and parks provided for in 2-15-3401.

NEW SECTION. **Section 4. Applicability.** [This act]

INTRODUCED BILL
HB 655

applies to that portion of the Smith River waterway located in Meagher and Cascade Counties lying between the Fort Logan bridge on Meagher County route 360 and the confluence of the Smith River with the Missouri River. This description does not prevent the department from naming or renaming areas pursuant to 23-1-102.

NEW SECTION. **Section 5. Management responsibility and plan.** (1) The department has the primary management responsibility for the Smith River waterway described in [section 4], consistent with the purpose stated in 23-1-101 and [section 2]. The Smith River waterway must be administered to:

(a) allow the continuation of compatible existing uses;

(b) maintain the natural scenic beauty, solitude, and wilderness experience of the river; and

(c) conserve fish and wildlife and scientific and recreational values.

(2) The department shall develop, adopt, and update as needed a management plan to guide the administration of the Smith River waterway.

NEW SECTION. **Section 6. Rulemaking authority.** The commission has authority to provide for the administration of the Smith River waterway. The commission may adopt rules to:

(1) regulate and allocate recreational floating and

camping to preserve the biological and social benefits of recreational use of the Smith River waterway in its natural state. Recreational use may be restricted to preserve the experience of floating, fishing, and camping in a natural environment and to protect the river's fish, wildlife, water, and canyon resources. The restrictions must:

(a) consider the tolerance of adjacent landowners to recreational use;

(b) consider the capability of the river and adjoining lands to accommodate floating and camping use; and

(c) ensure an acceptable level of user satisfaction, including minimizing user conflicts and providing for a level of solitude.

(2) restrict access, if necessary, through the use of a permit system. An allocation of a portion of the permits may be made to licensed outfitters to preserve the availability of outfitting services to the public.

(3) regulate the activities of recreational users of the water and land in the Smith River waterway that are legally accessible to the public and regulate the land in the river corridor that is under the control of the department and commission:

(a) for the purposes of safety, health, and protection of property;

(b) to preserve the experience of floating, fishing,

and camping in a natural environment;

(c) to protect the river's fish, wildlife, water, and canyon resources; and

(d) to minimize conflicts between recreationists and private landowners; and

(4) establish recreational user fees for floating and camping on the Smith River waterway.

NEW SECTION. **Section 7.** **Allocation of user fees.** All money collected as recreational user fees for floating and camping on the Smith River waterway pursuant to [section 6] must be deposited in the state treasury in a state revenue fund to the credit of the department.

NEW SECTION. **Section 8.** **Penalty.** A person who violates a rule of the commission adopted pursuant to [this act] is guilty of a misdemeanor punishable by a fine of not less than $50 or more than $500, by imprisonment in a county jail for not more than 6 months, or by both fine and imprisonment.

NEW SECTION. **Section 9.** **Extension of authority.** Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. **Section 10.** **Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this

act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **Section 11.** **Effective date.** [This act] is effective on passage and approval.

-End-

Sternberg clarified the amendments to the committee.

Amendments, Discussion, and Votes: Rep. Strizich moved a "do pass" on the amendments. (See Standing Committee Report for detail.) Question was called and a vote taken with Rep. Keller, Rep. Kasten, Rep. Hanson and Rep. Ellison noted as no votes. Therefore the amendments passed.

Recommendation and Vote: THEREFORE THE COMMITTEE RECOMMENDS A "DO PASS AS AMENDED" ON THIS BILL.

HEARING ON HOUSE BILL 655

Presentation and Opening Statement by Sponsor:

REP. HARPER: Everyone that has floated the Smith River is telling everyone to "float the Smith River". And what you have occurring is a congestion of floaters happening in certain times of the year. When you really have problems on the river you will find an excess of over 100 people a day on the river, all in the same spot and in the same camping area. You have land owner problems, litter problems, and congestion problems that these numbers of people cause. The purpose of this bill is to try to do something before this gets away from us. The system that the Dept. of Fish, Wildlife and Parks will set up will go in stages. They will try to reduce and regulate. I am ready to accept this system even in it's beginning stages, because it will include an early warning system. We have been immune from this for many years in the state, but now it is here and people are coming in. We need to take steps to regulate these resources. This bill allows for the Dept. of Fish, Wildlife and Parks to begin to implement this system, set up fees if they have to, and to get the planning process underway.

Testifying Proponents and Who They Represent:

Mr. Mike Bay/ outfitter, Helena

Mr. Ron Marcoux/ Dept. Fish, Wildlife and Parks, Helena

Ms. Dianne McDermand/ Smith River ADHOC Committee, Great Falls

Mr. Stan Bradshaw/ Mt. State Council of Trout Unlimited, Helena

Mr. Scot Snelson/ Mt. Wildlife Federation, Helena

Mr. Allen Rollo/ Medicine River Canoe Club, Great Falls

Mr. Jim Care/ Helena

Mr. Mike Wineghard/ outfitter, Helena

Mr. Paul Roos/ outfitter, Helena

Mr. Rich Day/ Bozeman

Mr. Tony Schoonan/ Butte

Ms. Faye Bergan/ Helena

Mr. Mark Meloy/ recreationist, Helena

Mr. John Maki/ outfitter, Helena

Rep. Bob Ream/ Missoula

Rep. John Phillips

Proponent Testimony:

Mr. Bay: Endorsed by private voters, this bill will give the Dept. the power to limit the number of floaters and allow them to collect fees to cover their ongoing expenses. It will be an act of good faith toward land owners, to help prevent trespassing. The flexibility of the plan will allow the maximum numbers of floaters to use the river. The Smith River Study showed that outfitters currently make up 10% of the total floating on that river. As an outfitter, I am prepared to cut down on the numbers of clients that I float in order to protect the integrity of the resource.

Mr. Marcoux: (See Exhibit #9, #2 and #3)

Ms. McDermand: (See Exhibit #10) I have been an avid floater for many years as a recreational floater.

Mr. Bradshaw: I bring to the Committee experience as a lawyer in the Dept. (Dept. of Fish, Wildlife and Parks). At the time that this planning process was first undertaken, it was clear that the Dept. did not have the legal tools to deal with the kinds of pressures that the river is now seeing. This bill addresses that limitation, and for that reason it is a good bill. I also would like to address what may be a concern among a number of land owners. I suspect that they reflect some concern about the potential of this bill to restrict the ability of adjacent landowners to their land as they see fit. My understanding is that this is not the intent of the bill. Rather, the intent of the bill is to deal with the restrictions of floaters on the river and regulating their conduct. I suggest including some explicit language to address those concerns. Indicating that this bill is limited to restrictions on floating and conduct of floaters on the river, and not to restrict the landowners.

Mr. Snelson: I propose an amendment on page 4 line 14, you may strike "access" and insert "recreational". I think that

will address the concerns of landowners. Doug Sternberg: legislative council clarified the amendment to the Committee. Referring to the current Stream Access Law, with respect to surface waters.

Mr. Rollo: (See Exhibit #11)

Mr. Wineghard: I support the bill in content with some concerns in regard to certain wording. I believe that amendments could be made to address concerns.

Mr. Care: I support the bill, as a landowner on the Smith River my concerns are addressed with the changes proposed in the amendments.

Mr. Roos: The need for a management tool in regulating the Smith River is evident. I feel that the Dept. of Fish, Wildlife and Parks is the appropriate agency to address this issue. I believe that if the Dept. is careful about fine tuning the process and use this as a generic tool to make changes we can begin to address the problem.

Mr. Day: I believe that the Dept. has a reasonable approach to managing the river. I support the amendments.

Mr. Shoonan: I feel the bill is well worked out with the addition of the amendments.

Ms. Faye Bergan: (See Exhibit #7a) I see this bill as a good intentioned approach with the spirit of cooperation, it is a comprehensive plan that I feel will address the situation well.

Mr. Meloy: I feel in general we, as recreationist, are better of today because of the efforts of the Dept. of Fish, Wildlife and Parks. I support the intent of this bill, we need to protect the resource. And make the Smith River experience a better one for all of those who wish to float.

Mr. Maki: (See Exhibit #4)

Rep. Ream: "wish to be noted as proponent"

Rep. Phillips: "also wish to be recorded as proponent"

<u>Testifying Opponents and Who They Represent:</u>

Mr. Robert Hanson/ landowner, White Sulphur Springs

Mr. John McGuire/ landowner, White Sulphur Springs

Mr. Elmer Hanson/ landowner, White Sulphur Springs

Mr. Don Johnson/ landowner, White Sulphur Springs

Ms. Kim Enkerude/ Mt. Stockgrowers, Helena

Mr. Ben Hurwitz/ landowner, White Sulphur Springs

Mr. Ambrose Phalen/ landowner, White Sulphur Springs

Mr. John Eckhart/ landowner, White Sulphur Springs

Mr. Robert Dupea/ landowner, White Sulphur Springs

Opponent Testimony:

Mr. Elmer Hanson: The problem with this bill is that it does not address the relationship of the effects with the landowners.

Mr. McGuire: I object to my water rights being turned over to someone else. The bill does have some good qualities, but I don't want to turn my water rights over to be controlled by a bureaucracy. (See Exhibit #16)

Mr. Robert Hanson: When the government acquires stream control the security of the landowner becomes threatened. I agree that there is a need for floater management, but not at the expense of the landowners needs for storage, quantity and quality of water usage. (See Exhibit #12)

Mr. Berg: I wish to be recorded as an opponent of the bill for the same reasons that you have already heard.

Mr. Johnson: My concern is with the water and corridor rights in favor of the regular floaters.

Mr. Hurwitz: I am concerned with the water right of the landowners.

Ms. Enkerude: (See Exhibit #14)

Mr. Ambrose Phalen: I support the concerns of the landowners.

Mr. Eckhart: I believe that the intent is well founded, but the concerns of the landowner must be addressed. (See Exhibit #8)

Mr. Dupea: (See Exhibit #15)

Questions From Committee Members:

REP. ELLISON: I don't particularly care for the "back door" approach, I would like to address the concerns of the landowners with this bill. REP. HARPER: I understand your concerns, and I do not want this bills purpose to be

misunderstood. There is no intent in this bill to intrude with the landowners rights. I would like to present to the Committee an amendment that I feel would clear up any misunderstanding or misinterpretations. (See Exhibit #17)

REP. KASTEN: Will this bill also regulate the use of the river to outfitters? MR. WINEGHARD: Yes, that is my understanding.

REP. ELLISON: Would the costs of the fee cover the expenses that you foresee for the Dept.? MR. MARCOUX: The current budget for the Smith will have to be reviewed. I don't believe that the costs will necessarily be offset, we will try to get some idea of the revenue in the first implementation of the system and review from that point. I would like to address the concerns of the landowners while I have the opportunity to. It is not the intent of the Dept. to, in any way, jeopardize the water rights of the landowners. As far as corridor preservation is concerned, we feel that the plan will be in favor of trying to preserve the corridor. I am amenable to support the kind of property rights that the land owners were addressing, and we will work with those landowners.

Closing by Sponsor:

REP. HARPER: I heard clearly what the opponents concerns are, and we all realize that something has to be done. I want to make clear that the amendment that I presented will protect the rights of the landowners. If the amendment does not cover the landowner, then I will make certain that it will. No changes of the existing use of the water by the landowner is implied, and will occur unless the landowner is in agreement with that change.

DISPOSITION OF HOUSE BILL 655

Motion: Rep. Daily motioned a "do pass"

Discussion:

Amendments, Discussion, and Votes: REP. HARPER: Clarified amendments to the Committee. REP. KASTEN: Questioned some of the wording of "wild and scenic", would like anything stricken from the bill that may later be interpreted as a restriction on landowners. REP. REAM: I would like to comment on the wording of "wild and scenic rivers". I think if we want to prevent the Smith River from becoming a wild and scenic river the best way to do that is by passing this act. Because the National Wild and Scenic Rivers Act has specific provisions in it that exclude state rivers if they are already designated in some way by that state. I think that fear is handled better by passage of this act, than not. REP. KASTEN: I would like to see this bill state that this bill is in no way interpreted as a wild and scenic act,

or bill. REP. REAM: We do not have a state wild and scenic rivers act, many states do. There is only the Federal Wild and Scenic Act designation. REP. DAILY: motioned the amendments proposed. (See Standing Committee Report for details). REP. KASTEN: I agree with the intent of the bill to regulate the water use rights of floaters, however I do see an encroachment on the landowners. I am concerned. REP. PHILLIPS: We already have all sorts of rules and regulations to conserve fish and water. If it will make someone happy to strike some of the questionable wording than I don't see any problem with that. REP. RANEY: You could also make someone unhappy by striking the wording. REP. KASTEN: Rep. Harper presented this tool as a way to regulate the use of the river, and I completely agree with that. I just do not want it to go beyond that. REP. DAILY: I think that Rep. Harper has addressed that in the amendments. REP. DEBRUYCKER: Would it be proper to ask a landowner (Mr. Hanson) if he agrees or objects to this. MR.ELMER HANSON: In the Wilderness Bill passed by Congress, the Tenderfoot Area was hanging on the edge as a recreational study area. And it has come down the Tenderfoot into the Smith River Canyon, where the rivers join together. And the wilderness legislation included into that water use is controlled by the wilderness area. That is really our concern. If this gets into anything that even sounds like wilderness, it effects upstream water use. Whether it says so in this bill or any other bill. Landowners just naturally shy away from anything that leads to that possibility. REP. DEBRUYCKER: I would like to ask Mr. Hanson one more time, do these amendments alleviate your concerns or do you still have problems? MR. HANSON: Yes, I think the amendments and the changes will answer most peoples concerns. REP. KASTEN: In addition to the amendments I would like to add "that nothing in this act will be interpreted to establish the Smith River Waterway as a wild and scenic river". I move that amendment. REP. REAM: Let me state again. I know the Federal Wild and Scenic Rivers Act pretty thoroughly, it is very different than the Wilderness Act. It has an entire section in it that deals with states and states rights, and state designations of wild and scenic rivers. Again, it provides the state primacy over rivers, in terms of designation. So a state does have designation recognizing rivers for their recreational value that will take president over the federal legislation. Even if they wanted to they could not come in and superimpose that on the state. REP. HARPER: I agree with others that the only way to protect this is to never bring the subject up. REP. KASTEN: If you believe that this will protect the landowner as the bill stands, I will withdraw my amendment. But if it does not, woe to those who say it will.

Recommendation and Vote: THEREFORE THE COMMITTEE RECOMMENDS A "DO PASS AS AMENDED" FOR THIS BILL.

ROLL CALL VOTE

FISH AND GAME COMMITTEE

DATE 2/16/89 BILL NO. HB655 NUMBER

NAME	AYE	NAY
Robert Blotkamp	✓	
Ben Cohen	✓	
Fritz Daily	✓	
Gene DeMars	✓	
~~Bob Pavlovich~~ Rob Gervais	✓	
Bob Raney	✓	
Bill Strizich	✓	
Roger DeBruycker	✓	
Orval Ellison	✓	
Ralph Eudaily	✓	
Marian Hanson	✓	
Betty Lou Kasten	✓	
Vernon Keller	✓	
John Phillips	✓	
Bob Ream, Chairman	✓	
Jim Elliott, Vice Chairman	✓	

TALLY 16 ____

Maureen Cleary
Secretary

Bob Ream
Chairman

MOTION: Rep Daily motioned "do pass"
Rep Daily "amends" was (15)
Rep Daily "do pass as amend"
~~Rep. Kasten moved "amend" withdrew~~
do pass amend

Form CS-31
Rev. 1985

STANDING COMMITTEE REPORT

February 17, 1989

Mr. Speaker: We, the committee on Fish and Game report that House Bill 655 (first reading copy -- white), with statement of intent attached, do pass as amended .

Signed: Bob Ream
Bob Ream, Chairman

And, that such amendments read:

1. Title, line 8.
Following: "USE;"
Insert: "PROVIDING FOR PROTECTION OF LANDOWNER PROPERTY RIGHTS AND WATER RIGHTS;"

2. Page 1, line 18.
Following: "recreational"
Insert: "and commercial"

3. Page 1, line 23.
Strike: "recreational"

4. Page 2, line 9.
Following: "recreational"
Insert: "and commercial"

5. Page 2, line 19.
Following: line 18
Insert: "(3) Nothing in [this act] may be construed in any way to restrict a landowner's access to or use of his land, improvements, water rights, or adjacent waterways."

6. Page 3, lines 14 and 15.
Following: "beauty"
Strike: ","
Insert: "and"
Following: "solitude"
Strike: ", and wilderness experience of the river"

7. Page 3, line 25.
Following: "recreational"
Insert: "and commercial"

8. Page 4, line 2.
Following: "recreational"
Insert: "and commercial"

9. Page 4, line 14.
Strike: "access"
Insert: "recreational use"
Strike: "use"
Insert: "implementation"

10. Page 4, line 18.
Following: "recreational"
Insert: "and commercial"

11. Page 5, line 6.
Following: "recreational"
Insert: "and commercial"

12. Page 5, line 9.
Following: "recreational"
Insert: "and commercial"

EXHIBIT #1
DATE 2/16/89
HB 655

330 North Jackson Helena, Montana 59601 (406) 442-2630

As a Montana Outfitter (Big Sky Expeditions) and owner of Montana Fly Goods, a retail shop in Helena, I would like to go on record in support of House Bill 655.

The Smith River and its surrounding environment is a resource of unmatched beauty. I am confident that with this plan the quality of the Smith River experience will be preserved.

However, one detail of the plan which I think should be re-evaluated is the group size allowed for outfitters. As the plan stands it allows for 15 guests. This size of client group would mean a total party size of at least 25 people (15 guests, 8 guides, 2 freighters). I do not feel that this is a group size appropriate for the Smith River. My suggestion would be a limit of 10 guests, allowing for a total group size of 18 (10 guests, 5 guides, up to 3 freighters).

Thank you for your time and consideration of this suggestion.

Sincerely,

Joel Wiemer

Joel Wiemer
BIG SKY EXPEDITIONS
MONTANA FLY GOODS

EXHIBIT #2
DATE 2-16-89
HB 655

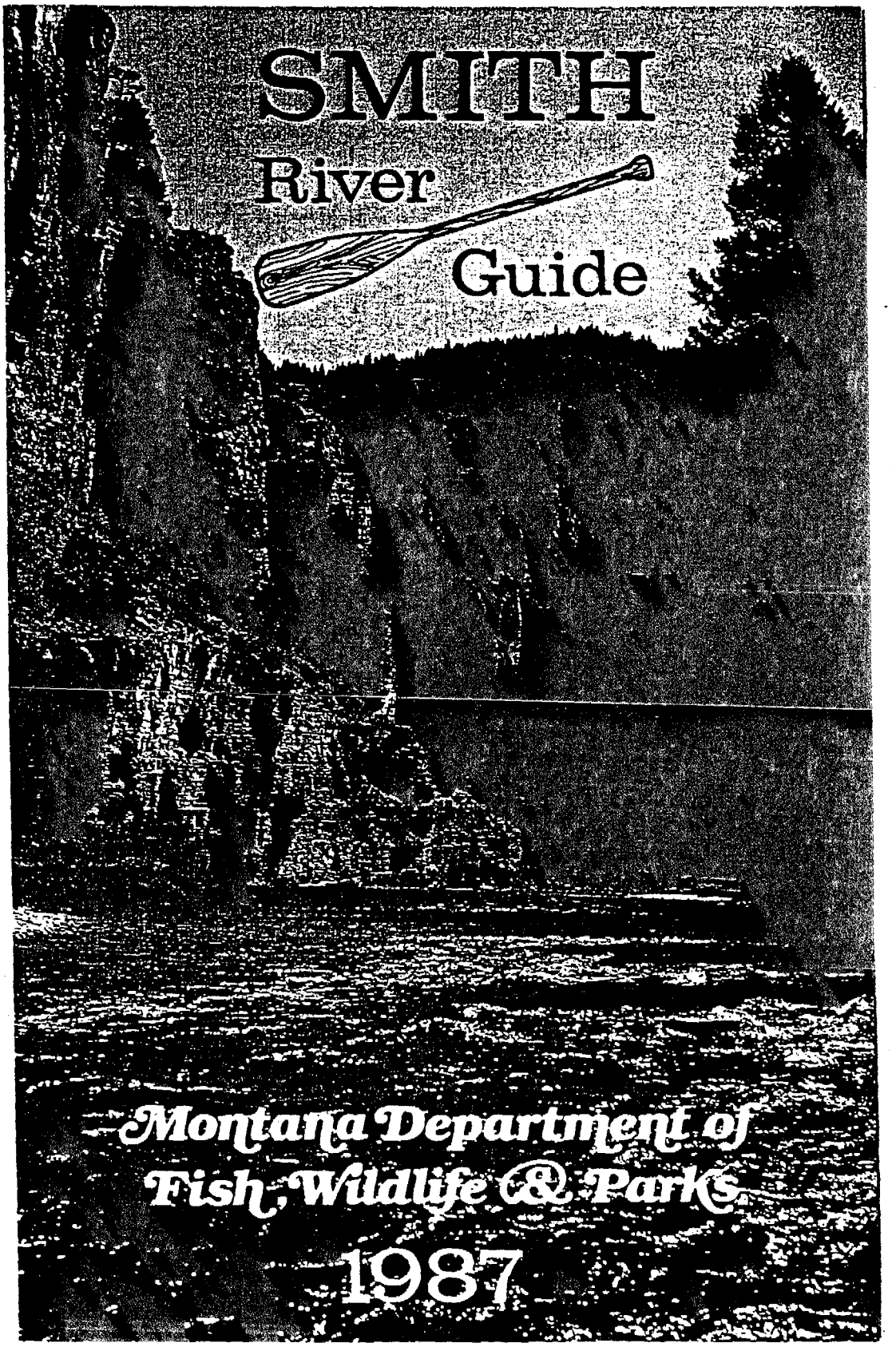
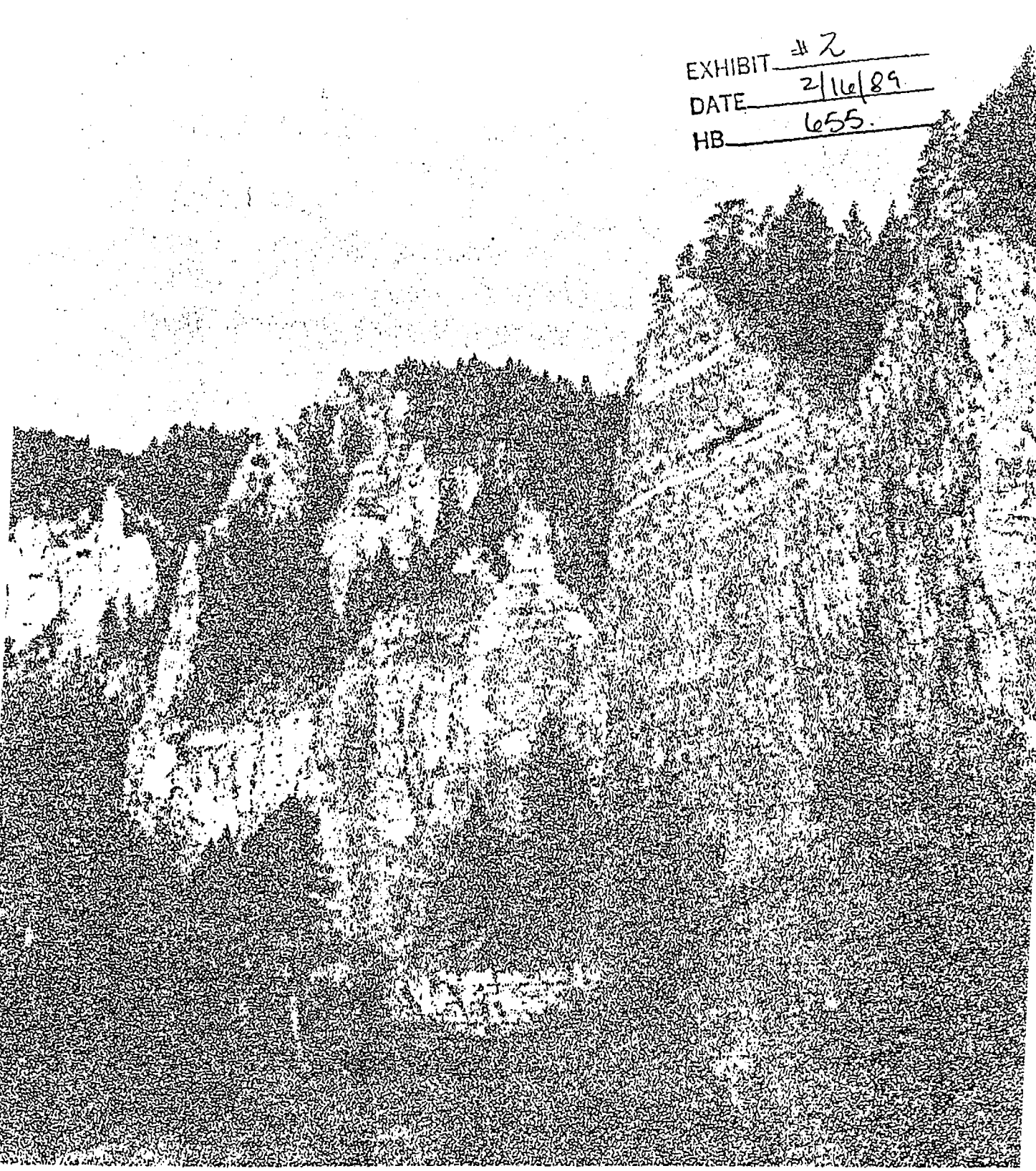


EXHIBIT # 2
DATE 2/16/89
HB 655.

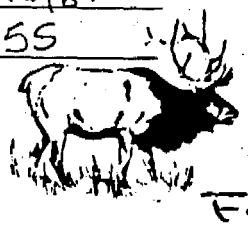


Smith River Management Plan 1988

Montana Department of Fish, Wildlife & Parks

John Maki
Outfitters
655 Granite
Helena. Montana 59601
406-442-6129

EXHIBIT
DATE 2/16/89
HB 655



TO -

Feb. 15, 19

Committee Considering House Bill #655

I am a proponent of this bill and think the Fish & Game Dept. has done a very good job of managing and studying the Smith river inorder to implement this Plan.

John Maki

28

EXHIBIT #5
DATE 2/16/89
HB 655

Engineering, Planning, Management & Environmental Consulting Services

JOEL A. SHOUSE P.E.

February 15, 1989

House Fish & Game Committee
% Rep. Bob Ream, Chairman
Montana State Legislature
Helena, MT 59620

Re: HB 655

Dear Committee Members:

I had the good fortune to be able to assist the Dept. of Fish, Wildlife and Parks over the past three years in extensive studies of the Smith River, one of Montana's most outstanding outdoor recreation resources. Detailed studies were done on the recreation use and on the stream corridor. The Department utilized an Advisory Committee made up of landowners, floaters, outfitters, and public land managers to assist in every step of these investigations. Numerous public meetings were held on the studies, management plan, and recommendations for legislation to accomplish the management plan.

The outgrowth of this work is HB 655, the Smith River Management Act. I strongly believe that the landowners, recreation users, and the outfitters on the Smith support this proposed legislation and I urge you to act favorably on this bill.

The Department has initiated studies, such as were done on the Smith, on the major fishing streams in the State. These studies all involve the landowners and public and commercial users of the streams. The end result of this work will be site specific management plans which have the support of local interest groups. In some cases, as with the Smith, legislation may be needed to accomplish the management plan. The real value in this approach is that the individual needs of each stream are being dealt with and local support is also being obtained. This is vastly superior to legislation which gives blanket management authority to all streams in the State.

I am sorry that I can not be present to testify on HB 655, but I again urge your support for this very important legislation.

Sincerely,

Joel A. Shouse

JAS/as

315 Haggerty Lane • Post Office Box 337 • Bozeman, Montana 59715 • (406) 586-1211

Engineering, Planning,
Management & Environmental
Consulting Services

JOEL A. SHOUSE P.E.

February 15, 1989

EXHIBIT #6
DATE 2/16/89
HB 655

House Fish & Game Committee
% Rep. Bob Ream, Chairman
Montana State Legislature
Helena, MT 59620

Re: HB 655

Dear Committee Members:

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Sincerely,

Joel A. Shouse

JAS/as

315 Haggerty Lane • Post Office Box 337 • Bozeman, Montana 59715 • (406) 586-1211

EXHIBIT #7
DATE 2/14/89
HB HJR26

HJR 26
February 16, 1989

Testimony presented by Ron Marcoux, Department of Fish, Wildlife & Parks

The Department of Fish, Wildlife & Parks supports HJR 26. We presently have a cooperative agreement with the Department of State Lands' Forestry Division for the purpose of developing guidelines and procedures to integrate wildlife and fisheries considerations into timber-management activities.

We welcome legislative endorsement of these efforts.

EXHIBIT #7a
DATE 2/16/89
HB 655

WITNESS STATEMENT

NAME FAYE BERGAN BILL NO. HB655

ADDRESS 12 S. Benton

WHOM DO YOU REPRESENT? Self - Republican

SUPPORT ✓ OPPOSE _____ AMEND _____

COMMENTS:

Faye Bergan

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Form CS-34A
Rev. 1985

EXHIBIT #8
DATE 2/16/89
HB 655

WITNESS STATEMENT

NAME JOHN EGGHARDT BILL NO. 655

ADDRESS EAR CANYON RANCH, WHITE SULPHUR SPRINGS, MT

WHOM DO YOU REPRESENT? SELF

SUPPORT _____ OPPOSE _____ AMEND X

COMMENTS: I SUPPORT THE EFFORT TO REGULATE THE RECREATIONAL USE OF THE SMITH RIVER, BUT DO FEEL THAT IT MUST BE AMENDED SO AS NOT TO IMPACT IN ANY WAY, NOW OR IN THE FUTURE, THE PRIVATE LAND OWNERS USE OF LAND OR WATER RIGHTS. REMOVE ~~THE~~ ANY THOUGHT THAT THIS IS THE BEGINNING OF A "WILD & SCENIC RIVERS DESIGNATION" FOR THE SMITH.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

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EXHIBIT #8a
DATE 2/16/89
HB 720

HB 720
February 16, 1989

Testimony presented by Ron Marcoux, Department of Fish, Wildlife & Parks

The Department of Fish, Wildlife & Parks supports HB 720 as proposed. The bill requires additional analysis be completed by the department on social and economic impacts of proposed acquisitions, leases or easements. These issues surfaced as major topics during public hearings on land proposals by the department during the past year.

This analysis will give the public and local County Commissioners the benefit of a comprehensive review of all the issues which may be of concern or have an impact on the local economy. The department believes the public deserves the best information available in order to comment. It is only through this commenting process that the department can address the legitimate concerns on a particular proposal.

Inclusion of the language of HB 720 into the process which already exists for land acquisition will meet the concerns expressed by the public.

EXHIBIT #9
DATE 2/16/89
HB 655

HB 655
February 16, 1989

Testimony Presented by Ron Marcoux, Department of Fish, Wildlife & Parks

The Smith River Canyon extends 61 river miles from Camp Baker to the Eden Bridge. It has long been recognized as a special place. In the past, it has been considered for National Wild and Scenic River designation, as well as state legislation to designate it a state park. In 1972, the Montana Fish and Game Commission designated the canyon portion of the river as the Smith River Recreational Waterway.

The canyon has no public access below Camp Baker and only limited private access due to the vertical canyon walls. More than 80 percent of the river frontage is in private ownership. Public ownership consists of state lands managed by the Department of Fish, Wildlife & Parks; state school trust lands administered by the Department of State Lands, and federal lands administered by the Lewis and Clark National Forest. At this time there are 22 public boat camps in the river corridor, 9 on Forest Service land, 6 on department land, and 7 on private land leased by the department. All 22 are managed by the department.

Public use of the canyon is typically in the form of 3-5 day float trips, with overnight camping along the river. The floating season can range from 4 to 12 weeks depending upon weather and water conditions. Use ranges between 1,200 and 2,000 floaters per season. When activity on the river exceeds 100 floaters per day, space at boat camps is inadequate, the potential for trespass and other problems such as camp site degradation is greater, and user satisfaction begins to diminish significantly. This currently occurs during peak periods. The department must rely largely on voluntary measures or natural conditions to limit or distribute recreational use on this increasingly popular stretch of river.

Since 1981, the department has been working to reduce impacts on private lands, maintain boat camps, float gates and signs, pick up litter and provide information through the distribution of a river map guide. This is accomplished by employing a seasonal river ranger.

In 1984, an ad hoc advisory committee, including recreational users, outfitters, landowners, the Forest Service and department personnel, was created to advise the department on river management issues.

In 1988, the department published the Smith River Management Plan which is an outgrowth of the work of the ad hoc

committee, extensive public involvement, and the river ranger program.

The goal of the Smith River Plan is ..."to identify ways of providing continued public recreational use and enjoyment of the Smith River Waterway, consistent with the river's capacity to maintain this use; to seek ways to minimize conflicts between river users and private landowners; and to protect the integrity of the river's water and canyon resources for future generations to enjoy." The heart of the plan is a staged and measured response to increasing levels of use.

I don't believe anyone, including the department, relishes the idea of more restrictive measures and increasing costs; however, the popularity of the Smith River and the attendant private lands and social demands make it evident that additional steps are necessary to maintain a quality experience and reduce conflicts between river users and private landowners.

HB 655 provides the Fish and Game Commission authority to regulate recreational use in the Smith River canyon and establish recreational floating fees to help pay for river corridor management. This proposal was developed with the participation of recreational users of the Smith River, outfitters, owners of adjacent private land, and the public agencies involved - local, state and federal.

The river's recreational carrying capacity has been set, based on experience, at 100 floaters per day. When use exceeds this level, problems arise and satisfaction diminishes.

A management system has been devised which will employ measures to distribute or limit use to keep peak days at or below 100 floaters per day. As use increases, more stringent management strategies will be employed.

Each year the recreational use will be evaluated at the end of the floating season. If use has exceeded the river capacity of 100 floaters per day for 15 or more days during the previous season, more stringent use controls will be considered for the coming year.

Five stages of management are defined in the plan.

Management is presently at Stage 1 which is characterized by a voluntary reservation system to help users distribute their use of the river to non-peak days, voluntary floater declaration of campsites to distribute use through the canyon, floater surveys to better understand user needs, informational and regulatory signing on the river and at access points, a

river guide brochure, regular creel fish surveys, and monitoring by the ad hoc committee.

Stage 2 will be implemented to ease floaters into a registration permit system. It continues the voluntary reservation system but adds a mandatory registration and the possible use of float craft identification tags. When use of the river exceeds 100 for more than 15 days per season we will initiate Stage 3.

Stage 3 would provide mandatory reservations for a set number of permits for the peak period of approximately Memorial Day through the Fourth of July, it would regulate floater parties, as well as the total number of floaters and allocate outfitter use. User fees will be initiated at this stage.

Stage 4 would extend Stage 3 regulation to the entire float season. Stage 5 would institute an equitable process for allocating permits for individuals.

Reasonable floater user fees is a way to offset the cost of increased corridor management. The present budget is $23,000 per year and comes from Parks coal tax funds. A fee of $5-$10 per person would generate $10,000-$20,000 per year at current use levels. This bill proposes the design of the fee. Its amount would be set by the commission through a public rule-making process which would include hearings.

Allocation of floating use may be needed in the future. This can be a complicated and time consuming task which must balance the needs of all users, including those requiring outfitter services, as well as resource considerations. This bill proposes using the Fish and Game Commission's public rule-making process to devise a method for fairly distributing floater use.

With such authority in place, the commission and the department will have the tools needed to manage the Smith River Corridor as prescribed in the Smith River Plan.

We urge your support of HB 655.

Medicine River Canoe Club

Great Falls, Montana

EXHIBIT #10
DATE 2/16/89
HB 655

February 15, 1989

House Fish and Game Committee
State Capitol
Helena, Montana

Chairman Ream and Members of the Committee:

In 1984 the Smith River Ad Hoc Committee was founded. Its purpose was to formulate a management plan for the Smith River. In the preceding years, consistently growing use on the Smith by floaters and fishermen had precipitated some landowner-recreationist conflicts and it became obvious that a formal management plan was necessary.

In addition to personnel from the Department of Fish, Wildlife & Parks, who would ultimately take the role as the primary managing agency, there were also representatives from the Forest Service, from Smith River landowners, from outfitters and from the general recreational floating public. I have been an avid floater of area rivers for many years and was asked to sit on the committee as that representative of the non-outfitted recreational floaters.

After a number of years of intense work by the committee members plus the expertise of a very competent land-use-planner plus the input from several public hearings held in Great Falls, Helena, Bozeman and the Eden area of the Smith River, a management plan was finally completed. Current state law would allow the Department of Fish, Wildlife & Parks to implement most of the plan. However, as use of the river increases, the management plan calls for implementation of some type of permit system and also establishment of users' fees. State law does not now make these two items possible so that is the purpose of HB 655.

Establishment of a permit system has had landowner support from the beginning since they have seen it as a useful tool to control the number of floaters. Input from the recreationists has also shown general support for this. Smith River floaters seem to place a high value on the serenity and solitude of the near-wilderness conditions and do not wish to have it degraded by overcrowding. Overcrowding can result in not only conflicts with landowners but also social conflicts among river users themselves.

The concept of users fees also seems to have broad support. Such monies might go towards boat camp maintenance, latrine installation, publication of a river guide, continued monitoring of river use, additional river rangers' salaries to allow enhanced enforcement of fishing regulations and trespass laws,

Medicine River Canoe Club

Great Falls, Montana

EXHIBIT #11
DATE 2/16/89
HB 655

February 16, 1989

House Fish & Game Committee
Room 312-3
Capitol Building
Helena, Montana 59620

Attention: Representative Bob Ream, Chairman

Reference: H.B. 655

Dear Representative Ream:

The Medicine River Canoe Club would like to voice our position on the Smith River Management Act (HB 655). We support HB 655 in its present form.

We favor efforts to preserve the present qualities found in the Smith River corridor. The Smith River Management Plan allows for certain preservation steps to be taken.

Specifically, we support:

1) Regulating use based on river capacity.
2) Regulating users both private and commercial; this represents a needed compromise between the outfitter and independent floater interests.
3) Allow the Department of Fish, Wildlife and Parks to charge users fees to enhance the Smith River's management.

HB 655 promotes the mutual objectives of landowners and floaters. This bill is in the best interest of all parties involved.

Respectfully,

Alan W. Rollo

Alan W. Rollo, President

also implementation of the permit system, craft identification tags of decals, maintenance of signs to identify what is public and what is private land and other uses unforeseen at this time. Recreationists and landowners alike see the possibility of many beneficial uses from users' fees.

It would seem that all landowners that understand the intent of this bill would lend their support to it because it offers a method for controlling floaters on the Smith River. Some recreationists might be apprehensive of such controls because, even though a system of permitted rivers is common in many areas of the United States, it is new to Montana.

I personally admit to some unease but I must recognize the passing era of uncontrolled river use and I must face the reality of the need to control the increasing use of Montana rivers, especially the Smith.

The Smith River management plan and this bill that would provide the authority to implement all aspects of the plan is the culmination of several years of work by the dedicated members of the Ad Hoc Committee. I respectfully encourage this committee to support HB 655.

Sincerely,

Dianne L. McDermand

Dianne L. McDermand
Member, Smith River Ad Hoc Committee
3805 4th Ave. S.
Great Falls, MT 59405

EXHIBIT #12
DATE 2/16/89
HB 655

WITNESS STATEMENT

NAME Elmer Hanson BILL NO. 655

ADDRESS Box 529 White Sulphur Springs

WHOM DO YOU REPRESENT? Delf and Smith River Water Users

SUPPORT _____ OPPOSE ✓ AMEND _____

COMMENTS: I am a past president of Mont. Stockgrowers, Chairman of the Board of Montana Livestock Ag Credit Inc. I am president of Riverside Ranch Co which owns and operates a cattle ranch in Meagher County along Smith River and tributaries of it. I have floated Smith River Canyon 3 times. When a government agency acquires control of streams, stream flows and nearby land use a rancher's base property and production becomes unstable. Livestock management and feed production become affected. The security of feed production and ability to repay financial obligations become questional and possibly difficult. This could lower the security vale of assets for ranch financing and the ability to acquire capital for ranch operations.

I am a board memba of Smith River Water Users Assoc. The best storage for mid & late summer stream flow water is the up stream irrigator.

Do you have any questions? + water Floater Management is need - not regulation of land uses.

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EXHIBIT #13
DATE 2/16/89
HB 655

WITNESS STATEMENT

NAME Ambrose Phelps BILL NO. 655

ADDRESS

WHOM DO YOU REPRESENT?

SUPPORT OPPOSE ✓ AMEND

COMMENTS:

I am opposed to bill 655 because of water rights and property rights.

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EXHIBIT #14
DATE 2/16/89
655

WITNESS STATEMENT

NAME Kim Enkerud BILL NO. HB655

ADDRESS

WHOM DO YOU REPRESENT? MT Stockgrowers

SUPPORT ____ OPPOSE X AMEND ____

COMMENTS:

We commend the Dept. & the sponsor for the attempt to regulate the recreational use along the Smith to ensure it for everyone to enjoy.

However our organization feels this bill does not properly address the landowners rights. In this bill most of the concern are addressing the recreational & fish & wildlife concerns. No where do I see the assurance of the continuation of landowner privledges.

In fact, I am concerned this bill is the start of designation of wild & scenic river bill in MT. Oregon recently passed a wild & scenic river bill that effects what can happen along a river corridor. Landowners will not be able to make improvements in these areas or to utilize these areas that benefit their operation to their maximum potential.

On page 4, line 25, the commission is to regulate the land in the river corridor under the control of

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the dept. to preserve the experience of floating, fishing, + camping in a natural environment.

I know this says the land the dept. controls, however there are those who will want the experience to go beyond what land the dept. controls. This can + will affect the private landowner.

I believe there is a need to clearly print out that this bill is to regulate recreational use if that is its intended purpose.

The landowners you have heard from are concerned + rightly so, with what has been occurring across the country in regard to recreation + private land + landowners.

EXHIBIT #15
DATE 2/16/89
HB 655

WITNESS STATEMENT

NAME Robert Dupea BILL NO. 655

ADDRESS White Sulphur Springs MT.

WHOM DO YOU REPRESENT? Outfitter & Ranches

SUPPORT _____ OPPOSE V AMEND _____

COMMENTS: First I do believe floating should be regulated on Smith River.

I do not support a corridor on either side of Smith River, There is no mention of the agriculture use that most of the areas are now subjected to or for compensation for this corridore.

Maintaing Water flow. This is a factor that would effect our water usage our water rights. We oppose any legislatior that would attempt to contral or alter our water rights.

As a Taxpayer and citizen of Meagher County I didn't have the opportunity to have imput in the Smith River Management Plan.

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EXHIBIT #16
DATE 2/14/89
HB 655

WITNESS STATEMENT

NAME John McGuire BILL NO. 655 - HB

ADDRESS Box 630, W.S.S. MT 59645

WHOM DO YOU REPRESENT? Self & Smith River Water users

SUPPORT _____ OPPOSE X AMEND _____

COMMENTS: Although there appear to be aspects of this bill that are desirable (eg., regulation of recreation use and fee charges) the parts of the plan pertaining to water quality and quantity and ecosystem integrity appear to threaten the rights of water users on the Smith River and its tributaries. Having the F.W.P. managing our water adjudications and irrigation practices is objectionable.

A great deal of clarification regarding property & water rights is needed before this bill should be considered.

Section 2 c, Line 14 and Section 5 B, Line 14 address the issues we find objectionable.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

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John McGuire

EXHIBIT #17
DATE 2/14/89
HB 655

Amendments to House Bill No. 655
Introduced Reading Copy

Requested by Rep. Harper
For the Committee on House Fish and Game

Prepared by D. Sternberg, Committee Staff
February 16, 1989

1. Page 2, line 19.
Following: line 18
Insert: "(3) Nothing in [this act] may be construed in any way to restrict a landowner's access to or use of his land, improvements, water rights, or adjacent waterways."

VISITORS' REGISTER

Fish and Game COMMITTEE

BILL NO. HB 655 DATE Feb. 16th

SPONSOR

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Tony Schoonen	Butte	✓	
Rick Day	Bozeman	✓	
Dianne McDermand	Great Falls	✓	
Alan Rollo	Great Falls	✓	
L. F. Thomas	Anaconda	✓	
Elmer Hanson	White Sulphur Springs		✓
John H. McGuire	White Sulph. Springs		✓
Robert Hanson	White Sulphur Springs		✓
JOAN ECKHARDT	WHITE SULPHUR SPRINGS		✓
Peggy Aber	" " "		✓
Peggy Phalen	" " "		✓
Ambrose Phalen	" " "		✓
BEN HURWITZ	" " "		✓
Don & Becky Johnston	" " "		✓
Steve Gilbert	Helena	✓	
Joel Werner	Helena	✓	
FAYE BERGAN	Helena	✓	
Mike Bay	Helena	✓	
[illegible]	Helena	✓	
Kim Enkerud	MT Stockgrowers		X
Scott Swelson	MT WILDLIFE FEDERATION	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Paul S. Roos Helm ✓

WITNESS STATEMENT

NAME Rob Brasch BILL NO. HB 447

ADDRESS 1915 So 12th W Missoula MT 59801

WHOM DO YOU REPRESENT? Western MT Fish + Game Assn

SUPPORT _____ OPPOSE _____ AMEND X

COMMENTS:

In favor of bill with exception of Section 2 part 2
Amend to read: Nothing in this section may
be construed to allow the storage of
smokeless powder in individual containers
holding greater than 15 pounds, ~~but not to~~ or
~~to~~ allow for repackaging of smokeless powder
from larger to smaller containers on the
retail premises.

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HB 655

		Support	Oppose
Gay Halgirmson	Helena (Audubon)	✓	
MARK MELOY	HELENA	✓	
Lorna Frank	Farm Bureau		X
Stan Bradshaw	Trout Unlimited	✓	

District
Marilyn Murphy representing herself
Janet Ellis representing the Montana Audubon Society

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Mike Murphy - See exhibit 6.

Kim Enkerud - See exhibit 7.

Charlie Hahnkamp urges the committee to pass HB 477.

Peggy Haaglund - See exhibit 8.

Neal Peterson - See exhibit 9.

Dave Pickett - See exhibit 10.

Linda Ellison - See exhibit 11.

Kay Norenberg - "We would like to go on record as supporting HB 477."

Tom Hopgood - "We support this bill for all the reason previously stated."

Jim Holmon - "We also support this bill for all the reasons previously stated."

Marilyn Murphy - "I urge passage of HB 477 without amendments."

Janet Ellis - See exhibit 16.

Questions From Committee Members: Senator Williams -"The list of counties. There are 50 counties, 6 counties including Yellowstone may not levy any mill levies for weeds?" Mike Murphy - "That may be right. I'll have to check it."

Closing by Sponsor: Representative Grady closed.

HEARING ON HOUSE BILL 655

Presentation and Opening Statement by Sponsor:
Representative Harper, House District 44, stated, "The

Smith River has become a popular area because of the scenic beauty and fantastic fishing...We are experiencing drastic increases in the number of floaters that are using this area...Something has to be done not with only the amount recreationists, but also with the landowners along the Smith River. This bill is an attempt to provide the maximum public use of the resource while we minimize the conflicts between recreationists and the landowners." Representative Harper explained the location of the Smith River. See exhibit 12. Representative Harper indicated there was an amendment (page 2) inserted into the bill for the purpose of protecting landowners. "The access of the Smith River for recreational use will no way be minimize or infringed upon. This bill provides when the pressure gets bad enough...the department is going to authorized to implement a plan to adopt a management plan...Something has to take place in order to continue to use this river. We don't want make the landowners up there so mad, that they will just figure someway to close this thing down."

List of Testifying Proponents and What Group They Represent:

Ron Marcoux representing the Montana Department of Fish, Wildlife, and Parks
Stan Bradshaw representing Trout Unlimited
Mike Bay representing himself
Kim Enkerud representing the Montana Stockgrowers Association

List of Testifying Opponents and What Group They Represent:

Robert Hanson representing himself from White Sulphur Springs
Bob Saunders representing White Sulphur Springs
George Berg representing himself a landowner on the Smith River
John Eckhart representing himself a landowner on the Smith River

Testimony:
Proponents:

Ron Marcoux explained the Smith River Management Plan. See exhibits 13 and 15.

Stan Bradshaw expressed that the bill emphasizes the need to reduce conflicts between landowners and recreationists by restricting the activity of the recreational users. Also, Mr. Bradshaw indicated that this bill would not attempt to codify the Smith River Management Plan.

"This is a good bill given the popularity of the Smith."

Mike Bay indicated he was representing the outfitters in and around the Helena area. Mr. Bay felt that HB 655's purpose was to limit the number of floaters on the Smith River. It would also allow the fish and game to collect fees.

Kim Enkerud - See exhibit 14.

Testimony:
Opponents:

Robert Hanson - "We are the ones that got the amendment in the bill. The question we have about this management plan is on page 14. They want to establish a scenic corridor. We don't want that to restrict our property rights. This particular part of the management plan is not acceptable to us because 80% of the property is private property...I don't think the fish and game should get into any kind of management of land. If I get a permit that guarantees me that I see a bighorn sheep and I don't see one--I don't want the Department of Fish, Wildlife, and Parks administrative ability to do this."

Bob Saunders indicated he supported the previous points made by Robert Hanson. "I have floated the Smith River three times in the last 18 years. Initially, it was a very pleasant experience. Now, the usage has become much greater. We need some limitations for using the river."

George Berg - "I agree with most of this bill. I think there should be a regulation on the number of floaters. The part I disagree with is adding the piece of river upstream from Camp Baker to Eden Bridge."

John Eckhart expressed a concern to specify the language in the management plan. The management plan is developed to regulate the floaters and I want no other intent in the language of the management plan.

Questions From Committee Members: Senator Galt - "I have no idea why you put this thing all the way to the bridge, as part of the program. Would you object to moving this down to Camp Baker? You say this is for the landowner/sportsman relationship and you're just aggravating the situation." Ron Marcoux - "The reason that was done is if the use did increase in that area we could control it. We wouldn't have an objection of

moving the boundary down to Camp Baker.

Senator Galt - "What would be your reaction of removing all of section five? Let's get that out of the picture or these people are going to go home a little upset about the whole thing." Representative Harper - "I think you have got to tell them somewhere in the bill, what you're suppose to do with the plan."

Senator Galt - "All the things that you need and all the things that you want to protect a good recreational experience and protecting the resource; I think it is all taken care of in section six. I think section five is redundant. We could take some of the good sentences in section five and add them to section six. If we strike section five, could you live with it in a year or two?" Representative Harper - "Senator, your idea of picking out some of the good might be satisfactory. The department would have to answer (the question)."

Senator Thayer - "I'm a little confused about what's going to trigger the application of this. You have an immediate effective date, but on the statement of intent (on top of page 2) it says `the commission will have time to study...and it will adopt the rules as to the need.' When will this go from a voluntary system into a mandatory system?" Representative Harper - "The triggering mechanism is the amount abuse that does take place."

Senator Thayer - "Is there some number, you have in mind, that is going to trigger an implication of this management program? Will you go to about 200 floaters a day until this kicks in? More than 100 or what is it?" Representative Harper - "I have the parks manager from Great Falls. He will answer the question." Dave Todd - "On page 13, of the Smith River Management Plan, you can see stage two and three describing the use." Mr. Todd reads stages two and three to answer Senator Thayer's question.

Senator Devlin - "You really haven't got a real good hand with numbers right now?" Dave Todd - "We have a real good hand with numbers."

Senator Devlin - "Is your problem with the holidays? Can't you regulate that on holidays?" Dave Todd - "That's what this plan is designed to do."

Senator Devlin - "Do you have that authority now." Dave Todd - "No."

Senator Devlin - So, this bill will give you that authority to regulate the number of floaters on the river?" Dave Todd - "Yes. It will give us rule making authority."

Closing by Sponsor: Representative Harper urged the passage of HB 655.

ADJOURNMENT

Adjournment At: 2:59 P.M.

Sen Tom Beck

SENATOR TOM BECK, Chairman

TB/jj

EXHIBIT NO. 3
DATE 3/13/89
BILL NO. HB 477, 516, 542, 655

BILL SUMMARY--SENATE AGRICULTURE COMMITTEE
MARCH 13, 1989
PREPARED BY DOUG STERNBERG, COMMITTEE STAFF

HB 477 Section 1: increases fee for 1- or 2-year-old off-highway vehicle from $25 to $26; increases fee on all other off-highway vehicles from $15 to $16; allows for remission of the $1 fee increase to the Dept. of Agriculture noxious weed management fund

Section 2: increases annual weed control fee on all motor vehicle registrations from 50 cents to $1.50

Section 3: coordinates HB 477 fee increase with fee increase in HB 165 on off-highway vehicles

Section 4: provides July 1, 1989, effective date

HB 516 Section 1: requires that landowners maintain half of the fence along the land boundary unless otherwise provided; allows for maintenance responsibility by mutual agreement if there is a substantial difference in terrain or topographical features

Section 2: standard saving clause

HB 542 Section 1: requires submission of independent hydrologic or other specific evidence in order to meet the standard of criteria necessary for issuance of a water use permit

Section 2: extends present agency rulemaking authority

Section 3: provides an immediate effective date

HB 655 Section 1: short title

Section 2: outlines purpose and intent of the Smith River Management Act

Section 3: defines "commission" and "department"

Section 4: describes the part of Smith River subject to management under the Act

Section 5: assigns primary management responsibility of the Smith River waterway to the Department of Fish, Wildlife, and Parks; outlines management plan administration

Section 6: grants rulemaking authority to the Fish and Game Commission and outlines topics that rules may address, including implementation of a permit system

Section 7: allocates user fees to the state revenue fund for the use of the Department of Fish, Wildlife, and Parks

Section 8: provides a penalty for violation of a rule adopted under the Act

Section 9: extends present agency rulemaking authority

Section 10: standard severability clause

Section 11: provides immediate effective date

MONTANA STOCKGROWERS ASSOCIATION, INC.

EXHIBIT NO. 1
3/13/89
HB655

P.O. BOX 1679 — 420 NO. CALIFORNIA ST. — PHONE (406) 442-3420 — HELENA, MONTANA 59624

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NANCY ESPY	BOYES	GREG RICE	HARRISON

March 13, 1989

TO: Senate Agriculture Committee

FROM: Montana Stockgrowers Association

SUBJECT: House Bill 655: Smith River Management Act

Mr. Chairman, Members of the Committee:

My name is Kim Enkerud. I am representing the Montana Stockgrowers Association.

When House Bill 655 was heard in the House Fish and Game Committee, we were concerned that landowner rights were being jeopardized as they were not addressed in this bill. Several landowners from the Smith River area were also very concerned.

Representative Harper amended the bill so the people's concerns were addressed. I have been in contact with these people and they see no problem with House Bill 655 now.

I did have a concern with Section 5, subsection 1, part b - dealing with scenic beauty and solitude. My concern was if this is a bill to regulate use, why are scenery issues in this bill. After talking wit Bob Lane of the Montana Department of Fish, Wildlife and Parks, he explained this will help regulate recreational use even more. An example is if ten floaters are affecting the floating experience, the maybe there should only be three floaters present. In turn, this wil decrease the impact on a landowner's land near the stream.

The Smith River landowners were also concerned with this. After thi explanation, they are more comfortable with this language in the bil

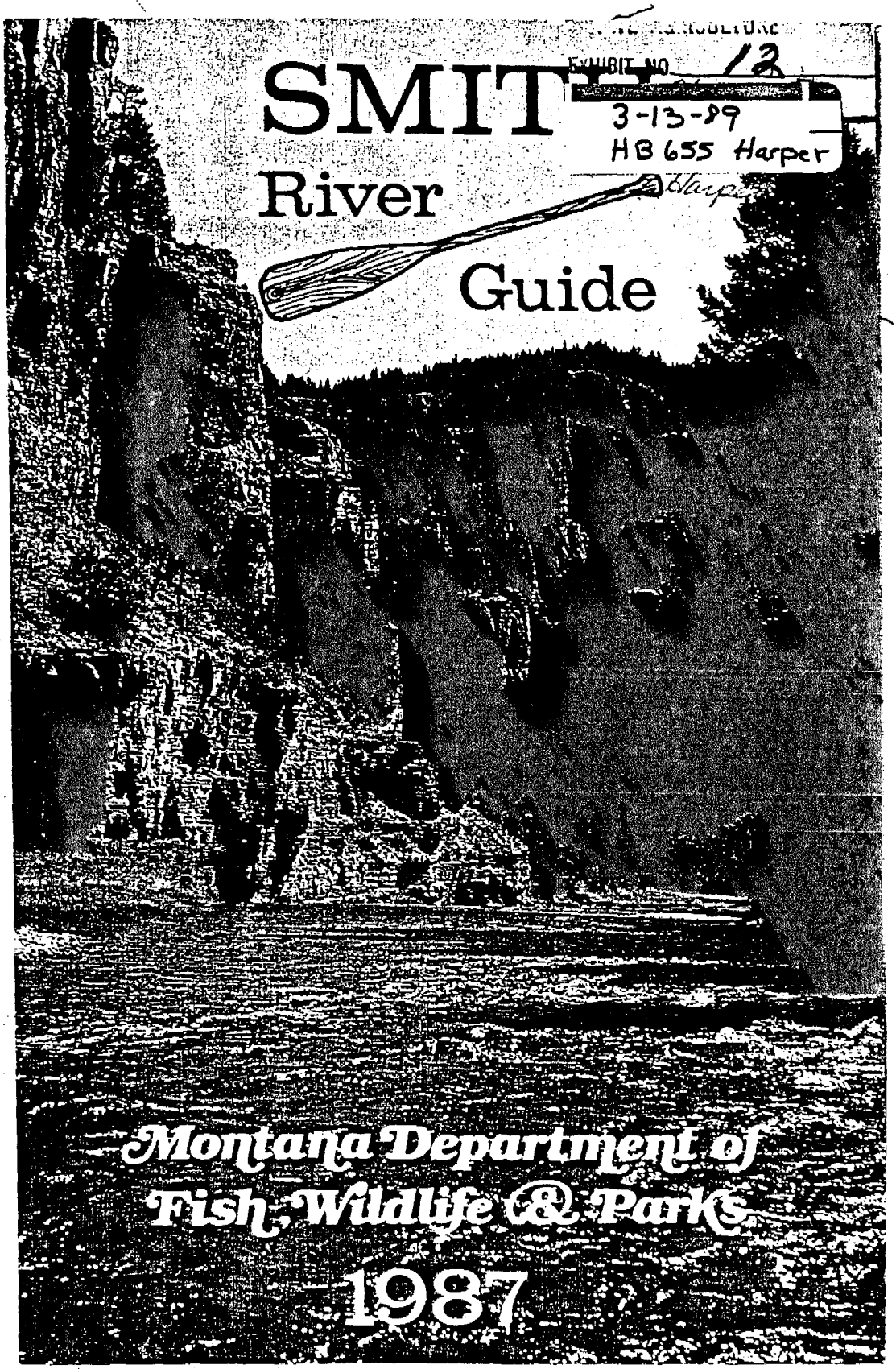
Mr. Chairman, we hope the Committee will concur with HB655.

Thank you.

KE:ejr

EXHIBIT NO. 12
3-13-89
HB 655 Harper

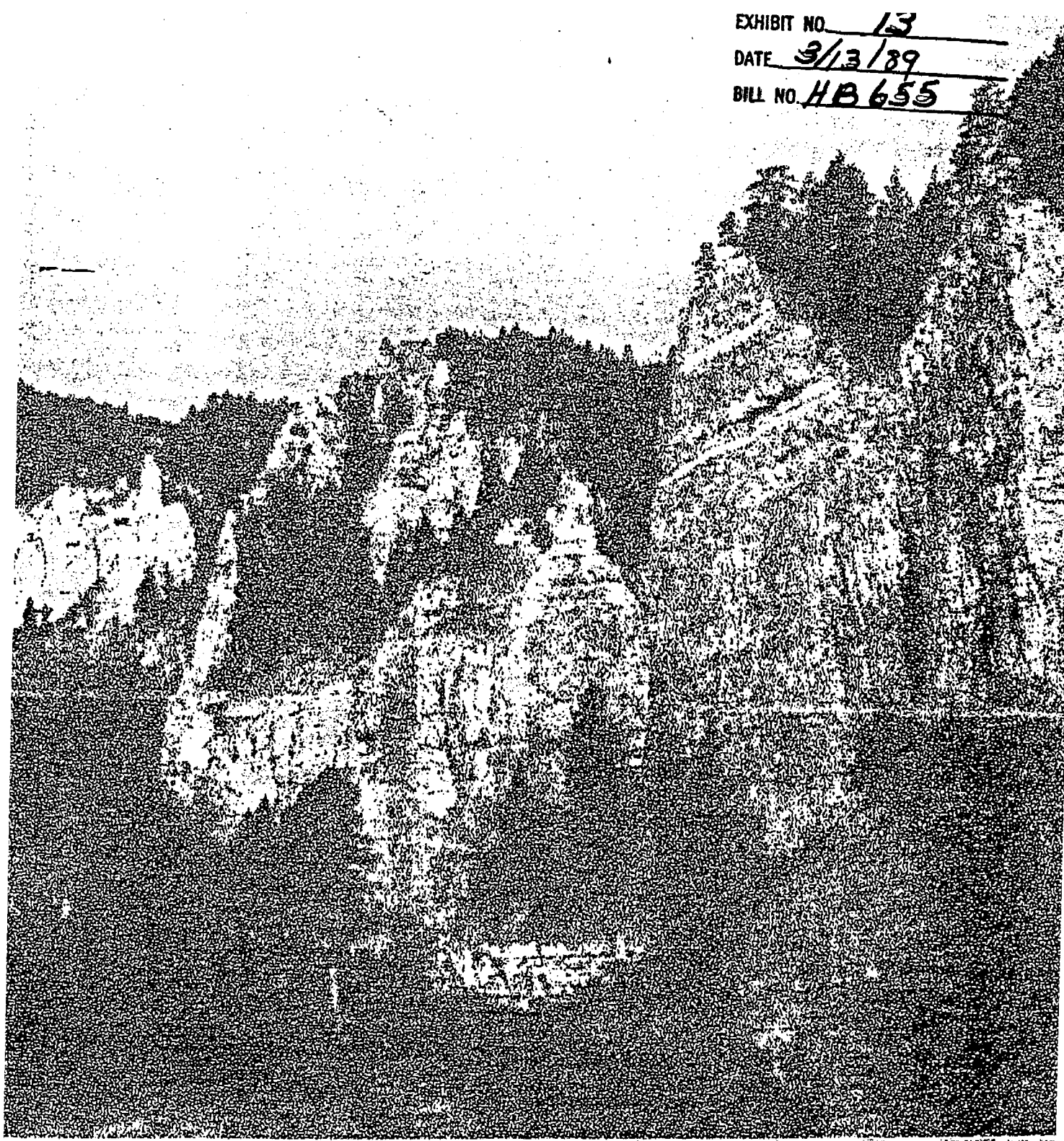
SMITH River Guide



Montana Department of Fish, Wildlife & Parks

1987

EXHIBIT NO. 13
DATE 3/13/89
BILL NO. HB 655



Smith River Management Plan 1988

Montana Department of Fish, Wildlife & Parks

SENATE AGRICULTURE
EXHIBIT NO. 15
DATE 3/13/89
BILL NO. HB 655

HB 655
March 13, 1989

Testimony Presented by Ron Marcoux, Department of Fish, Wildlife & Parks

The Smith River Canyon extends 61 river miles from Camp Baker to the Eden Bridge. It has long been recognized as a special place because of its limited access, scenic beauty and relatively undeveloped setting.

The canyon has no public access below Camp Baker and only limited private access due to the vertical canyon walls. More than 80 percent of the river frontage is in private ownership. At this time there are 22 public boat camps in the river corridor, 9 on Forest Service land, 6 on department land, and 7 on private land leased by the department. All 22 are managed by the department.

Public use of the canyon is typically in the form of 3-5 day float trips, with overnight camping along the river. The floating season can range from 4 to 12 weeks depending upon weather and water conditions. Use ranges between 1,200 and 2,000 floaters per season. When activity on the river exceeds 100 floaters per day, space at boat camps is inadequate, the potential for trespass and other problems such as camp site degradation is greater, and user satisfaction begins to diminish significantly. The department has relied largely on voluntary measures or natural conditions to limit or distribute recreational use on this increasingly popular stretch of river.

Since 1981, the department has been working to reduce impacts on private lands, maintain boat camps, float gates and signs, pick up litter and provide information through the distribution of a river map guide. A seasonal river ranger is employed to assist in this effort.

In 1984, due to the increasing popularity of the Smith River, an ad hoc advisory committee, including recreational users, outfitters, landowners, the Forest Service and department personnel, was created to advise the department on river management issues.

In 1988, the department published the Smith River Management Plan which is an outgrowth of the work of the ad hoc committee, extensive public involvement, and the river ranger program.

A management system has been devised which will distribute or limit use to keep peak days at or below 100 floaters per day. As use increases, more stringent management strategies will be employed, beginning with a voluntary reservation system to the most restrictive, which would be a permit allocation system.

I don't believe anyone, including the department, relishes the idea of more restrictive measures and increasing costs; however, the popularity of the Smith River and the attendant private lands and social demands make it evident that additional steps are necessary to maintain a quality experience and reduce conflicts between river users and private landowners.

HB 655 provides the Fish and Game Commission authority to regulate recreational use in the Smith River canyon based on biological and social criteria. There is no intent to regulate private land use nor in any way affect water rights. An amendment in the House Fish and Game Committee made certain this was clearly understood in the bill. The amendment is on page 2, lines 22 through 24.

The bill also provides for reasonable floater user fees as a way to offset the cost of increased corridor management. The present budget is $23,000 per year and comes from Parks coal tax funds. A fee of $5-$10 per person would generate $10,000-$20,000 per year at current use levels. This bill proposes the design of the fee. Its amount would be set by the commission through a public rule-making process which would include hearings.

Allocation of floating use may be needed in the future. This can be a complicated and time consuming task which must balance the needs of all users, including those requiring outfitter services, as well as resource considerations. This bill proposes using the Fish and Game Commission's public rule-making process to devise a method for fairly distributing floater use.

With the authority in place as proposed by this bill, the commission and the department will have appropriate tools needed to manage the Smith River Corridor.

We urge your support of HB 655.

DATE 1/13/89

COMMITTEE ON Aquaculture 1 of 2

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppos
Kim Enkerud	MT Stockgrowers, Cattlewomen	655	✓	
" "	State Grazing Dist.	477	✓	
Tom Hopgood	Mont Assoc. Realtors	477/516	✓	
Jothy Galwood	WFTA	542	✓	
Marvin Barber	~~Agriculture~~ FWP	542 516	✓	
John Eckhardt		655		✓
Jack Sedgwick	Livestock	516	✓	
John Skufca	"	"	✓	
Stan Bradshaw	Trout Unlimited	~~655~~	✓	
Linda Ellison	MT Trail Bike Riders Assn	477	✓	
Janet Ellis	Audubon Society	477	✓	
Neil O. Peterson	MT Weed Control Assoc Madison Co Weed	477	✓	
Terry Nick	MT Stockgrowers, Cattlewomen - Assoc of St. Grazing Dist	516	✓	
Peggy Haaglund	MT Assoc of Conservation Dist	477	✓	
Monte Clemons	Livestock	477	✓	
Robert Hanson	Self	655		✓
ELLEN BERG	SELF	655		✓
George Bolz	Self	655		✓
RE Sundeen	Self	655		✓
Dave Pickett	Battle Weed Board	477	✓	
Bob Lane	FWP	655		
Dave Todd	FWP	655		
Valerie Lagen	Farm Bureau	HB 477	✓	
Valerie Lagen	Farm Bureau	HB 516	X	
Valerie Lagen	Farm Bureau	HB 542	X	
Kay Wiedenbeck	WIFE	477	X	

(Please leave prepared statement with Secretary)

DATE 3/15/87

COMMITTEE ON Agriculture 2 of 2

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppos
Mike Bay	self	655	X	
Jim Jensen	MEIC - Box 1184 Helena	#477	X	
11		655	X	
Lyle Hahtaupe	Headwaters RC&D	477	X	
Ron Marcoux	FWP	655	X	

(Please leave prepared statement with Secretary)